

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19095
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision to deny the property tax reduction benefit for 2005. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed an application for the property tax reduction benefit for year 2005 on April 1, 2005. Pursuant to Idaho Code § 63-707(5), the staff examined the application the petitioner filed with [Redacted] County.

Because the petitioner's application showed the owner of the property as [Redacted], the staff sent the petitioner a letter advising her of the intent to deny the benefit because she did not appear to own the homestead.

In response, the petitioner sent a letter protesting the intended action. Included with the letter were copies of the death certificates of the petitioner's parents, her mother's will, and documents relating to the probate of her mother's estate. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The pertinent part of Idaho Code § 63-701 states:

**63-701. Definitions.** -- As used in this chapter:

(1) **"Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code.**  
Except as provided in section 63-702(2), Idaho Code, on January 1 of

the year or before April 15 in which the claim was filed a claimant must be an owner of a homestead and be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) **"Homestead" means the dwelling, owner-occupied by the claimant** as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead. (Emphasis added.)

...

(7) **"Owner" means a person holding title in fee simple** or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds

title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other Cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. **Where title to property was held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner,"** provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8)(a) or (8)(b) of this section. (Emphasis added.)

According to the above definitions that describe the property tax reduction benefit program, the petitioner qualifies as the claimant. However, because the [Redacted] County records show the person holding title in fee simple on January 1, 2005, was [Redacted] and not the petitioner, she (the petitioner) does not appear to qualify as the owner.

[Redacted] passed away on June 15, 2004. Her husband had predeceased her on February

20, 1998. Letters of Testamentary signed by the Magistrate of the District Court of [Redacted] County on January 3, 2005, establish the petitioner as her mother's personal representative. However, nothing was submitted to show the estate had been settled and the property transferred to the petitioner before April 15, 2005.

The petitioner has established herself as a beneficiary (perhaps the sole beneficiary) of the estate. However, by definition, the owner of the property is [Redacted]'s estate. The property tax reduction benefit for 2005 must be denied.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated September 16, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]

[REDACTED]

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